FILED
JUL 13 2005
OFFICE OF THE CLERK

No. 05 86

In The Supreme Court of the United States

PIPER JAFFRAY & CO., and
ROBERT ENGLISH, et al.,

Petitioners,

v.

JOHN P. DALY and AUDREY M. DALY,
JOHN D. SHEA and BRENDA SHEA,
THE ESTATE OF ALICE A. FRANEY, ROBERTA J.
EMETT and KATHLEEN E. MERRETT, VICKI
BERRYMAN and JAMES LEARY,

Respondents.

On Petition For Writ Of Certiorari To The Montana Supreme Court

PETITION FOR WRIT OF CERTIORRI

Counsel:

STANLEY T. KALECZYC
BROWNING, KALECZYC, BERRY & HOVEN, P.C.
139 N. Last Chance Gulch
P.O. Box 1697
Helena, Montana 59624
(406) 443-6820
Counsel of Record

JOHN S. LUTZ
FAIRFIELD AND WOODS, P.C.
1700 Lincoln, Suite 2400
Denver, Colorado 80203
(303) 830-2400

Counsel for Piper Jaffray & Co., and Robert English

COCKLE LAW BRIEF PRINTING CO (800) 225-6964
OR CALL COLLECT (402) 342-2831

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Montana Supreme Court's judicially imposed requirement that pre-dispute arbitration clauses commonly contained within securities industry customer agreements must be explained to the customer before the agreement is even executed violates the Federal Arbitration Act?

2. Whether the Montana Supreme Court's invalidation of pre-dispute arbitration clauses commonly contained within securities industry customer agreements and generally enforceable in other jurisdictions impermissibly interferes with the relationship between broker-dealers and their customers in interstate commerce in violation of the Commerce Clause?

PARTIES

Petitioner Piper Jaffray & Co. ("Piper Jaffray"), Defendant below, is a registered broker-dealer conducting business in all 50 states, including Montana. At all times material to this case, Piper Jaffray conducted business at, among other locations, its Branch Office in Butte, Montana.

Petitioner, Robert English, Defendant below, was at all times material the Piper Jaffray Branch Office Manager in the Butte Branch.[1]

Defendant Thomas J. O'Neill was at all times material the Piper Jaffray Account Executive for each of the Respondents.[2]

The plaintiffs below, Respondents here, in these six actions were, at all times material to the case, clients of Piper Jaffray. Each of the plaintiffs had signed one or more customer account agreements with Piper Jaffray containing a pre-dispute arbitration clause, typical of the clauses used throughout the securities industry nationwide. Each of the plaintiffs was at all times material a citizen of Montana and maintained an account with Piper Jaffray's Butte office.

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[1] Mr. English was not named as a Defendant in *Daly v. U.S. Bancorp Piper Jaffray Inc., et al.*

[2] Mr. O'Neill is not represented with respect to this Petition.

RULE 29.1 LISTING

Piper Jaffray & Co. was formerly U.S. Bancorp Piper Jaffray Inc., a wholly owned subsidiary of U.S. Bancorp. During the pendency of this litigation, the name and ownership of U.S. Bancorp Piper Jaffray Inc. changed in connection with the spin-off by U.S. Bancorp of its capital markets business on December 31, 2003. To effect the spin-off, U.S. Bancorp contributed its capital markets business, including U.S. Bancorp Piper Jaffray Inc., to a newly formed subsidiary, Piper Jaffray Companies, and subsequently distributed all of the shares of Piper Jaffray Companies to the shareholders of U.S. Bancorp. In connection with the spin-off, U.S. Bancorp Piper Jaffray Inc. changed its name to Piper Jaffray & Co. and became a wholly owned subsidiary of Piper Jaffray Companies, and Piper Jaffray Companies became a publicly traded company whose shares are traded on the New York Stock Exchange under the symbol "PJC".

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